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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte OLIVIER HERICOURT and JEAN-FRANCOIS LePENNEC

Appeal 2008-3093
Application 10/007,750¹
Technology Center 2100

Decided:² April 13, 2009

Before HOWARD B. BLANKENSHIP, JEAN R. HOMERE, and
CAROLYN D. THOMAS, *Administrative Patent Judges*.

HOMERE, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ Filed on November 13, 2001. The real party in interest is International Business Machines Corp.

² The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

I. STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1 through 9. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

Appellants' Invention

Appellants invented a method for verifying certificates issued from one or more certificate authorities. (Spec. 1, II. 4-7.) As depicted in Figure 3, upon a first entity-A (301) sending a message signed with a certificate to a second entity-B (302), a certificate locker (311) in entity-B receives the message and stores the certificate in a frozen zone to prevent the use thereof until validation. (*Id.* at 12, II. 8-21.) Further, a certificate checker (312) within entity-B identifies the certificate authority (CA) that has issued the certificate, and accesses one or more certificate filters (309) in a filtering device (308) via a certificate filter table (CFC 313) to verify that the CA can be trusted. Upon confirming that the CA is trustworthy, the filtering device (308) sends the CA public key to entity-B to authenticate the certificate for subsequent use. (*Id.* at 12, I. 22 to 13, I. 5.)

Illustrative Claim

Independent claim 1 further illustrates the invention as follows:

1. A method for filtering certificates issued from as few as one certificate authority (CA), the method comprising the steps of:

receiving a certificate and storing the certificate;
preventing use of the certificate until validation;
identifying a certificate authority that has issued the certificate;
identifying a certificate authority filter by referring to a table,
that comprises identification of at least one certificate authority filter;
sending a request to the identified certificate authority filter;
receiving from the identified certificate authority filter a
response to the request, the response comprising information related
to the certificate authority that has issued the certificate and a public
key of the certificate authority that has issued the certificate;
determining according to the response whether the certificate
authority is a trusted certificate authority; and
validating the certificate if the certificate authority that has
issued the certificate is a trusted certificate authority.

Prior Art Relied Upon

The Examiner relies on the following prior art as evidence of
unpatentability:

Van Oorschot	6,134,550	Oct. 17, 2000
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Rejection on Appeal

The Examiner rejects the claims on appeal as follows:

Claims 1 through 9 stand rejected under 35 U.S.C. § 102(e) as being
anticipated by Van Oorschot.

Appellants' Contentions

Appellants argue that Van Oorshot does not teach as few as one certificate authority. Rather, Appellants contend that Van Oorshot teaches at least two certificate authorities whereas the claimed invention is restricted to a single certificate authority. (Appeal Br. 5-7.)

Examiner's Findings/Conclusions

The Examiner finds that Van Oorshot's disclosure of a certificate chain including a beginning certification authority and a target certification teaches the recitation of as few as one certificate authority issuing the certificates to be filtered. (Answer 8-10.) Therefore, the Examiner finds that Van Oorshot anticipates independent claim 1. (*Id.*)

II. ISSUE

Have Appellants shown that the Examiner erred in finding that Van Oorshot teaches as few as one certificate authority issuing certificates to be filtered?

III. FINDINGS OF FACT

The following findings of fact (FF) are supported by a preponderance of the evidence.

Van Oorshot

1. Van Oorshot discloses a method and system for compiling and storing certificate chain data containing entries in shortest trusted paths representing trust relationships among certificate authority issuing units to thereby enable a requesting unit to rapidly identify valid certificates.

(Abstract 1-6.)

2a. As depicted in Figure 2, a certificate validating unit (204) issues to certificate chain constructing unit (206) a request that identifies a beginning certification and a target certification to thereby obtain a certificate chain information pertaining to certificate issuing units in a trusted path. (Col. 5, ll. 7-25, col. 6, ll. 1-6.)

2b. Then, the certificate chain constructing unit (206) analyzes data stored in the chain data storage medium (208) to retrieve the requested chain data, and to subsequently send the chain data to the certificate validating unit (204) for rapidly validating the certificates contained in the chained data. (Col. 6, ll. 6-11.)

IV. PRINCIPLES OF LAW

Claim Construction

"[T]he words of a claim 'are generally given their ordinary and customary meaning.'" *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (internal citations omitted). "[T]he ordinary and customary meaning of a claim term is the meaning that the term would have to a person

of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application." *Id.* at 1313.

"[T]he PTO gives claims their 'broadest reasonable interpretation.'" *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000)). "Moreover, limitations are not to be read into the claims from the specification." *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (citing *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989)). Our reviewing court has repeatedly warned against confining the claims to specific embodiments described in the specification. *Phillips v. AWH Corp.*, 415 F.3d at 1323.

Anticipation

In rejecting claims under 35 U.S.C. § 102, "[a] single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation." *Perricone v. Medicis Pharmaceutical Corp.*, 432 F.3d 1368, 1375 (Fed. Cir. 2005) (citing *Minn. Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 1565 (Fed. Cir. 1992)). "Anticipation of a patent claim requires a finding that the claim at issue 'reads on' a prior art reference." *Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1346 (Fed. Cir. 1999). "In other words, if granting patent protection on the disputed claim would allow the patentee to exclude the public from practicing the prior art, then that claim is anticipated, regardless of whether it also covers subject matter not in the prior art." *Id.* (internal citations omitted).

V. ANALYSIS

Independent claim 1 recites in relevant part a method for filtering certificates issued from as few as one certificate authority.

We first consider the scope and meaning of the expression *as few as one*, which must be given its broadest reasonable interpretation consistent with Appellants' disclosure, as explained in *In re Morris*, 127 F.3d 1048 (Fed. Cir. 1997):

[T]he PTO applies to the verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in the applicant's specification.

Id. at 1054. *See also In re Zletz*, 893 F.2d at 321 (stating that "claims must be interpreted as broadly as their terms reasonably allow."). Appellants' Specification states the following:

The present invention discloses a system and method, in a workstation connected to a network, for filtering *certificates issued from one or more certificate authorities (CA)*.

(Spec. 8, ll. 23-25.) (Emphasis added.)

The present invention also discloses a system and method, in a certificate authority filter connected to a network, for filtering *certificates issued from one or more certificate authorities (CA)*.

(*Id.* at 9, ll. 24-27.) (Emphasis added.)

A method for filtering *certificates issued from one or more certificate authorities (CA)*.

(*Id.* at 24, ll. 1-2.) (Emphasis added.)

Our reviewing court further states, “the ‘ordinary meaning’ of a claim term is its meaning to the ordinary artisan after reading the entire patent.” *Phillips v. AWH Corp.*, 415 F.3d at 1321.

Upon reviewing Appellants’ Specification, we find that “as few as one certificate authority” means one or more certificate authorities. This finding arises from the fact that Appellants’ originally filed disclosure describes the recited method as being directed to filtering certificates issued from one or more certificate authorities. We find nothing in the cited disclosure to restrict the issuance of the certificates to a single authority. We further find no support on the record before us to warrant Appellants’ contention that the expression ‘as few as one certificate authority’ means a single certificate authority. We therefore reasonably construe the expression “as few as one certificate,” consistent with Appellants’ Specification, to mean at least one certificate (i.e. one or more certificates).

As set forth in the Findings of Facts section, Van Oorshot discloses a system wherein a requested certification chain among certificate issuing units (including a beginning certification and a target certification) is retrieved from a certificate chain storage and forwarded by a certificate chain constructing unit to a certificate validating unit to rapidly identify valid certificates therein. (FF. 1-2.) We find that, consistently with our interpretation above, the validation unit’s subsequent validation of the

certificates retrieved and issued by the certificate chain constructing unit fairly and reasonably teaches that one or more (at least one or as few as one) certificate authority (the certificate chain constructing unit) issues the certificates to be filtered (validated), as recited in independent claim 1. Further, notwithstanding our interpretation of the expression “as few as one certificate authority”, we also find that Van Oorshot’s certificate chain constructing unit fairly and reasonably teaches a single certificate authority that issues the certificates to be filtered. It follows that Appellants have not shown that the Examiner erred in finding that Van Oorshot anticipates independent claim 1.

Appellants did not provide separate arguments with respect to the rejection of claims 2 through 9. Therefore, we select independent claim 1 as being representative of the cited claims. Consequently, claims 2 through 9 fall together with representative claim 1. *See* 37 C.F.R. § 41.37(c)(1)(vii).

VI. CONCLUSION OF LAW

Appellants have not shown that the Examiner erred in rejecting claims 1 through 9 as set forth above.

VII. DECISION

We affirm the Examiner’s decision to reject claims 1 through 9.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

Appeal 2008-3093
Application 10/007,750

AFFIRMED

msc

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